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8 *Attorneys for Defendants*  
*Nevada Department of Corrections*  
9 *and Nicholas Galbiso*

10 **IN THE UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA**

12 DARIO OLIVAS,

13 Plaintiff,

14 v.

15 STATE OF NEVADA ex rel. DEPT.  
OF CORRECTIONS; NICHOLAS  
16 GALBISO, individually; *et al.*,

17 Defendants.

Case No. 2:14-cv-01801-JCM-VCF

**DEFENDANTS' MOTION FOR  
ENLARGEMENT OF TIME TO FILE  
RESPONSE TO PLAINTIFF'S THIRD  
AMENDED COMPLAINT  
[FIRST REQUEST]**

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19 Defendants, the Nevada Department of Corrections (NDOC) and Nicholas Galbiso, by and  
20 through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Benjamin Johnson,  
21 Deputy Attorney General, hereby move this Court for a seven day extension to file their answer or other  
22 first responsive pleading to Plaintiff's Third Amended Complaint (ECF No. 29). The instant Motion is  
23 made pursuant to Fed. R. Civ. P. 6, the following memorandum of points and authorities and all other  
24 papers and pleadings on file herein.

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 **I. INTRODUCTION**

27 Plaintiff Dario Olivas filed a Motion to Amend Complaint on July 14, 2017. (ECF No. 26).  
28 Defendants filed a non-opposition on July 21, 2017. (ECF No. 27). The Court granted Plaintiff's

Motion (ECF No. 28), and the Third Amended Complaint was filed on July 26, 2017. (ECF No. 29). Defendants' responsive pleading is due on August 9, 2017.

## **II. ARGUMENT**

### **A. Good Cause Exists to Grant an Enlargement of Time.**

FRCP 6(b) addresses extending time, stating:

(1) In General.

When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Good cause exists to enlarge the time by which a party may file a brief where additional time is needed to prepare such a brief. *See O'Connor v. U.S. I.R.S.*, 698 F.Supp. 204, 205 (D. Nev. 1988) (district court granted the plaintiffs' motion for an extension of time to oppose a motion for summary judgment).

Defendants seek a seven day enlargement of time, up to and including August 16, 2017, to file a responsive pleading to the Third Amended Complaint. Counsel for Defendants has been preoccupied with trial preparation in another case pending in the U.S. District Court of Nevada, *Pinder v. Baker*, 3:13-cv-00572-MMD-WGC, whose trial was set to begin on August 8, 2017. The parties had reached a tentative settlement, but there have been some problems finalizing the paperwork. Due to this unforeseen event, counsel has had to focus all attention on this other case.

Accordingly, Defendants request an enlargement of time to file a response. This motion is made in good faith and not for the purposes of delay or to prejudice the Plaintiff. A short extension of time will allow Defendants to finalize a responsive pleading.

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1 **III. CONCLUSION**

2 Based on the foregoing, Defendants respectfully request that the Motion for Enlargement of  
3 Time to File Response to Third Amended Complaint be GRANTED.

4 DATED this 9th day of August, 2017.

5 ADAM PAUL LAXALT  
6 Attorney General

7 By:   
8 BENJAMIN R. JOHNSON  
9 Deputy Attorney General  
10 State of Nevada  
11 Bureau of Litigation  
12 Public Safety Division

*Attorneys for Defendants*

13 **IT IS SO ORDERED.**

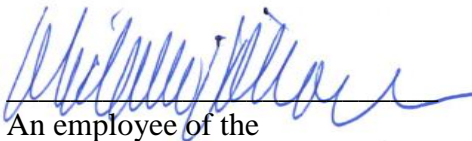
14 DATED this 14th day of August, 2017.

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16 U.S. MAGISTRATE JUDGE  
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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that  
3 on August 9, 2017, I electronically filed the foregoing, **DEFENDANTS' MOTION FOR**  
4 **ENLARGEMENT OF TIME TO FILE RESPONSE TO PLAINTIFF'S THIRD AMENDED**  
5 **COMPLAINT [FIRST REQUEST]**, with the Clerk of the Court for the United States District Court,  
6 District of Nevada, by using the CM/ECF system. Participants in this case who are registered CM/ECF  
7 users will be served by the CM/ECF system:

8 Cal J. Potter, III, Esq.  
9 C.J. Potter, IV, Esq.  
10 Potter Law Offices  
11 1125 Shadow Lane  
12 Las Vegas, NV 89102  
13 *Attorneys for the Plaintiff*

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15 An employee of the  
16 Office of the Attorney General  
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